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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/670,849

Applicant(s)

SHAH, RAHUL L.

Examiner

JOSHUA JOO

Art Unit

2454

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-18, 20-28, 30-37, 39-47 and 49-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-18, 20-28, 30-37, 39-47 and 49-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 07/15/08.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

Detailed Action

1. This Office action is in response to communication dated 07/15/2008.
Claims 1-9, 11-18, 20-28, 30-37, 39-47, 49-56 are pending for examination.

Response to Arguments

2. Applicant's arguments with respect to claims 1-9, 11-18, 20-28, 30-37, 39-47, 49-56 have been considered but are moot in view of the new ground(s) of rejection. New ground(s) of rejection are necessitated by Applicant's amendment. Applicant argued that:
 3. (1) Applicant traverses the Examiner's objection to the specification as allegedly failing to provide proper antecedent basis for the claimed computer-accessible storage medium. Numerous examples of computer-accessible media that are configured to store program instructions and/or data are provided.
 4. In response, Examiner respectfully disagrees that the specification provides proper antecedent basis for the claimed computer-accessible storage medium. Applicant provides examples and descriptions of "computer-accessible storage medium". However, the specification does not have antecedent basis for the terminology of "computer-accessible storage medium". Applicant is required to make appropriate amendment to the description to provide clear support or antecedent basis such that "computer-accessible storage medium" corresponds to the examples of storage media provided no new matter is introduced. See MPEP 608.01(o)

Information Disclosure Statement

5. The information disclosure statement (IDS) submitted 07/15/2008 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the Examiner.

Specification

6. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

Regarding claims 20-28, 30-37, the term "computer-accessible storage medium" lacks sufficient antecedent basis in the specification. The specification describes of "mass storage device" and "computer-accessible medium include storage media or memory media... computer-accessible medium may also include volatile or non-volatile media...". Applicant is required to make appropriate amendments to the description to provide clear support for the term such that the "computer-accessible storage medium" clearly refers to the physical memory media, i.e. storage media.

Double Patenting

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 1, 11, 20, 30, 39, and 49 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 13-15, 27-29, 41-42 of copending Application No. 10/670550, in view of Seshadri et al. US Patent #7,209,916 (Seshadri hereinafter).

Instant Application Claim 1	Copending application #10/670550 Claim 1
A computer-implemented method, comprising: <u>receiving an instant messaging operation directed to a given user, said given user is not offline;</u> and wherein said instant messaging operation is associated with a given presence state of an instant messenger;	A method, comprising: executing an instant messenger client on a computer system; detecting a computer system activity level indicative of activity of said computer system;
<u>determining a current presence state of said instant messenger in response to receiving said instant messaging operation, wherein said current presence state corresponds to said given user; and</u> in response to determining that said given presence state matches said current presence state, <u>processing said instant messaging operation.</u>	determining whether said activity level exceeds an activity threshold in response to said detecting; and transitioning a presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold, <u>wherein said presence state corresponds to a given user.</u>
	Claim 13
	The method as recited in claim 1, further comprising:
	<u>receiving an instant messaging operation directed to a given user, wherein said given user is not offline;</u>
	<u>determining said presence state of said instant messenger in response to receiving said instant messaging operation; and</u>
	<u>selectively processing said instant messaging operation dependent upon said presence state in response to said determining.</u>

Instant Application Claim 30	Copending application #10/670550 Claim 28
A computer-accessible storage medium, comprising program instructions, wherein the program instructions are computer-executable to:	The computer-accessible medium as recited in claim 15, wherein said program instructions are further computer-executable to:
<u>store an instant messaging operation associated with a given presence state of an instant messenger,</u>	<u>store an instant messaging operation associated with a given presence state of an instant messenger,</u>

<u>wherein said given presence state corresponds to a given user;</u>	<u>wherein said given presence state corresponds to a given user;</u>
<u>detect a transition of a current presence state of said instant messenger to said given presence state subsequent to said storing; and</u>	<u>detect a transition to said given presence state subsequent to said storing; and</u>
<u>perform said instant messaging operation in response to said detecting.</u>	<u>perform said instant messaging operation in response to said detecting.</u>

9. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

i) Regarding the rejection of claim 1 of the instant application, claims 1 and 13 of the copending application does not comprise the feature of “said instant messaging operation is associated with a given presence state of an instant messenger” “determining a current presence state,” and “determining that said given presence state matches said current presence state”. However, Seshadri teaches an invention for providing notifications based on user preference comprising: associating an instant messaging operation associated with a given presence state of an instant messenger (col. 4, lines 15-20; col. 5, lines 39. Instant messaging. col. 2, line 38-42. Preference for being notified in view of state information.), determining a current presence state (col. 4, lines 4-9. Current user state. col. 12, lines 5-16, 32-34. Gather context information.), and determining that said given presence state matches said current presence state (col. 2, lines 17-21; col. 5, lines 46-50. When conditions are true, perform operation.). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the copending application with the teachings of Seshadri, which would provide an improvement to the copending application by allowing automated actions based on personal user preferences.

ii) Claims 20 and 39 of the instant application are rejected by claims 15, 27, 29 and 41 of the copending application, which comprise similar features of claims 1 and 13 of the copending application, for reasons similar to the rejection of claim 1.

iii) Regarding the rejection of claim 30 of the instant application, claims 15 and 28 of the copending application comprises the feature of detecting a transition but not specifically of a current presence state of said instant messenger. Seshadri teaches of detecting a transition of a current presence state (col. 12, lines 5-16, 32-34. Gather context information. col. 2, lines 17-21; col. 5, lines 46-50. Perform operation when conditions are true.). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the copending application with the teachings of Seshadri, which would provide an improvement to the copending application by allowing automated actions based on personal user preferences.

iv) Claims 11 and 49 of the instant application are rejected in view of claims 1, 14, 29 and 42 of the copending application, which comprise similar features of claim 15 and 28 of the copending application, for reasons similar to the rejection of claim 30.

10. Claims 1, 11, 20, 30, 39, and 49 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 9-11, 19-21, 29, and 30 of copending Application No. 10/670549, in view of Seshadri.

Instant Application Claim 1	Copending application #10/670549 Claim 9
A computer-implemented method, comprising: <u>receiving an instant messaging operation directed to a given user, said given user is not offline; and wherein said instant messaging operation is associated with a given presence state of an instant messenger;</u> <u>determining a current presence state of said instant messenger in response to receiving said instant messaging operation, wherein said current presence state corresponds to said given user; and</u> <u>in response to determining that said given presence state matches said current presence state, processing said instant messaging operation.</u>	The method as recited in claim 1, further comprising:
	<u>receiving an instant messaging operation directed to a given user, wherein said given user is not offline;</u>
	<u>determining the presence state specific to said instant messenger in response to receiving said instant messaging operation; and</u>
	<u>selectively processing said instant messaging operation dependent upon said presence state in response to said determining.</u>

Instant Application Claim 30	Copending application #10/670549 Claim 20
A computer-accessible storage medium, comprising program instructions, wherein the program instructions are computer-executable to:	The computer-accessible medium as recited in claim 15, wherein said program instructions are further computer-executable to:
<u>store an instant messaging operation associated with a given presence state of an instant messenger, wherein said given presence state corresponds to a given user;</u>	<u>store an instant messaging operation associated with a given presence state of an instant messenger, wherein said given presence state corresponds to a given user;</u>
<u>detect a transition of a current presence state of said instant messenger to said given presence state subsequent to said storing; and</u>	<u>detect a transition to said given presence state subsequent to said storing; and</u>
<u>perform said instant messaging operation in response to said detecting.</u>	<u>perform said instant messaging operation in response to said detecting.</u>

11. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

i) Regarding the rejection of claim 1 of the instant application, claims 1 and 9 of the copending application does not comprise the feature of “said instant messaging operation is associated with a given presence state of an instant messenger” “determining a current presence state,” and “determining that said given presence state matches said current presence state”. However, Seshadri teaches an invention for providing notifications based on user preference comprising: associating an instant messaging operation associated with a given presence state of an instant messenger (col. 4, lines 15-20; col. 5, lines 39. Instant messaging. col. 2, line 38-42. Preference for being notified in view of state information.), determining a current presence state (col. 4, lines 4-9. Current user state. col. 12, lines 5-16, 32-34. Gather context information.), and determining that said given presence state matches said current presence state (col. 2, lines 17-21; col. 5, lines 46-50. When conditions are true, perform operation.). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the copending application with the teachings of Seshadri, which would provide an improvement to the copending application by allowing automated actions based on personal user preferences.

ii) Claims 20 and 39 of the instant application are rejected by claims 11, 19, 21, and 29 of the copending application, which comprise similar features of claims 1 and 13 of the copending application, for reasons similar to the rejection of claim 1.

iii) Regarding the rejection of claim 30 of the instant application, claims 15 and 20 of the copending application comprises the feature of detecting a transition but not specifically of a current presence state of said instant messenger. Seshadri teaches of detecting a transition of a current presence state (col. 12, lines 5-16, 32-34. Gather context information. col. 2, lines 17-21; col. 5, lines 46-50. Perform operation when conditions are true.). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the copending application with the teachings of Seshadri, which would provide an improvement to the copending application by allowing automated actions based on personal user preferences.

iv) Claims 11 and 49 of the instant application are rejected in view of claims 1, 10, 21, and 30 of the copending application, which comprise similar features of claim 15 and 28 of the copending application, for reasons similar to the rejection of claim 30.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

13. Claims 1-3, 11-12, 14, 20-22, 30-31, 33, 39-41, 49-50, and 52 are rejected under 35 U.S.C. 102(e) as being anticipated by Seshadri.

14. As per claims 1 and 20, Seshadri teaches the invention as claimed including a computer-implemented method and computer-access storage medium, comprising:

receiving an instant messaging operation directed to a given user, wherein said given user is not offline, and wherein said instant messaging operation is associated with a given presence state of an instant messenger (col. 4, lines 15-20. Instant message request. col. 5, lines 39. Instant messenger. col. 2, line 38-42. Preference for being notified in view of state information.);

determining a current presence state of said instant messenger in response to receiving said instant messaging operation, wherein said current presence state corresponds to said given user (col. 4, lines 4-9. Inhibit or enable action according to current user state. col. 12, lines 5-16, 32-34. Gather context information.); and

in response to determining that said given presence state matches said current presence state, processing said instant messaging operation (col. 2, lines 17-21; col. 5, lines 46-50. When conditions are true, perform operation.).

15. As per claims 11 and 30, Seshadri teaches the invention as claimed including a method and a computer-accessible storage medium, comprising:

storing an instant messaging operation associated with a given presence state of an instant messenger, wherein said given presence state corresponds to an online given user (col. 2, line 38-42. Preference for being notified in view of state information. col. 5, lines 50-55; col. 7, lines 25-31. Base upon state information, queue message.);

detecting a transition of a current presence state of said instant messenger to said given presence state subsequent to said storing (col. 2, lines 23-29. Current user context is maintained. col. 12, lines 5-16, 32-34. Gather context information.); and

performing said instant messaging operation in response to said detecting (col. 2, lines 17-22; col. 5, lines 46-50. When conditions are true, perform operation.).

16. As per claim 39, Seshadri teaches the invention as claimed including a system, comprising:
a computer system; an instant messenger software module configured to execute on said computer system (col. 4, lines 23-35. Software executed on computer(s). col. 4, lines 15-20. Instant message request.);

wherein said instant messenger software module is further configured to:

receiving an instant messaging operation directed to a given user, wherein said given user is not offline, and wherein said instant messaging operation is associated with a given presence state of an instant messenger (col. 4, lines 15-20. Instant message request. col. 5, lines 39. Instant messenger. col. 2, line 38-42. Preference for being notified in view of state information.);

determining a current presence state of said instant messenger in response to receiving said instant messaging operation, wherein said current presence state corresponds to said given user (col. 4, lines 4-9. Inhibit or enable action according to current user state. col. 12, lines 5-16, 32-34. Gather context information.); and

in response to determining that said given presence state matches said current presence state, process said instant messaging operation (col. 2, lines 17-21; col. 5, lines 46-50. When conditions are true, perform operation.).

17. As per claim 49, Seshadri teaches the invention as claimed including a system, comprising:
a computer system; an instant messenger software module configured to execute on said computer system (col. 4, lines 23-35. Software executed on computer(s). col. 4, lines 15-20. Instant message request.);

wherein said instant messenger software module is further configured to:

storing an instant messaging operation associated with a given presence state of an instant messenger, wherein said given presence state corresponds to an online given user (col. 2, line 38-42.

Preference for being notified in view of state information. col. 5, lines 50-55; col. 7, lines 25-31. Base upon state information, queue message.);

detecting a transition of a current presence state of said instant messenger to said given presence state subsequent to said storing (col. 2, lines 23-29. Current user context is maintained. col. 12, lines 5-16, 32-34. Gather context information.); and

performing said instant messaging operation in response to said detecting (col. 2, lines 17-22; col. 5, lines 46-50. When conditions are true, perform operation.).

18. As per claims 2, 21, and 40, Seshadri teaches the invention as recited in claims 1, 20, 39, wherein said instant messaging operation comprises a chat operation (col. 4, lines 15-20. Instant message request. col. 5, lines 39. Instant messenger.).

19. As per claims 3, 22, and 41, Seshadri teaches the invention as recited in claims 1, 20, 39, wherein said instant messaging operation comprises an alert operation (col. 2, lines 9-11; col. 7, lines 27-31. Deliver notification, display alert.).

20. As per claims 12, 31, and 50, Seshadri teaches the invention as recited in claims 11, 30, and 49, wherein said instant messaging operation comprises a chat operation (col. 4, lines 15-20. Instant message request. col. 5, lines 39. Instant messenger.).

21. As per claims 14, 33, and 52, Seshadri teaches the invention as recited in claims 11, 30, and 49, wherein said instant messaging operation comprises an alert operation (col. 2, lines 9-11; col. 7, lines 27-31. Deliver notification, display alert.).

Claim Rejections - 35 USC § 103

22. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

23. Claims 4, 16, 23, 35, 42, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seshadri, in view of Cristofalo et al. US Publication #2002/0152117 (Cristofalo hereinafter).
24. As per claims 4, 16, 23, 35, 42, and 54, Seshadri does not specifically teach the invention as recited in claims 1, 11, 20, 35, 39, and 49, wherein said instant messaging operation comprises a poll operation.
25. Cristofalo teaches of providing an instant messaging operation comprising a poll operation (Paragraph 0023. Media object relates to polling question. Bi-directional communications via instant messaging. Claims 58, 60. Chat/Instant messaging interface utilizes media object.).
26. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the instant messaging operation as taught by Seshadri to comprise a poll operation as taught by Cristofalo. The motivation for the suggested combination is that Cristofalo's teachings of providing a poll operation would provide an improvement Seshadri's teachings by allowing users to receive customized information such as advertisements based on the users' profile (Paragraph 0005; 0007).

27. Claims 5, 7-8, 13, 15, 17, 24, 26-27, 32, 34, 36, 43, 45-46, 51, 53, 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seshadri, in view of Horvitz, US Publication #2002/0087649 (Horvitz hereinafter) .

28. As per claim 5, 24, and 43, Seshadri teaches the invention as recited in claims 1, 20, and 39 wherein processing said instant messaging operation further comprises: notifying said given user of said instant messaging operation (col. 2, lines 9-11; col. 7, lines 27-31. Deliver notification, display alert.); and queuing said instant messaging operation without notifying said given user if said current presence state is indicative of a busy user state (col. 5, lines 50-55; col. 7, lines 25-31. Base upon state information, queue message. col. 2, line 38-42. Preference for being notified in view of state information. col.5, lines 29-37. Busy.). Seshadri teaches of notifying said given user but not specifically if said current presence state is indicative of an idle user state.

29. Horvitz teaches a system for notification based on user state, wherein alerting may occur based on an inferred state non-activity (Paragraph 0267. Threshold on alerting for inferred state. Alerting may occur during idle activity following activity.).

30. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to notify said given user of said instant messaging operation as taught by Seshadri on the condition that the current presence state is indicative of an idle user state as taught by Horvitz. The motivation for the suggested combination is that Horvitz's teachings would provide an improvement to Seshadri's teachings by allowing notification of messages while reducing disruption to users as suggested by Horvitz (Paragraph 0008).

31. As per claims 7, 26, and 45, Seshadri teaches the invention as recited in claims 5, 24, and 43, further comprising: detecting a transition from a presence state indicative of a busy user state subsequent to said queuing (col. 5, lines 50-55; col. 7, lines 25-31. Base upon state information, queue message. col. 2, line 38-42. Preference for being notified in view of state information. col.5, lines 29-37. Busy.); and notifying said given user of a queued instant messaging operation in response to detecting said transition (col. 2, lines 17-21; col. 5, lines 46-50. When conditions are true, perform operation. col. 2, lines 9-11; col. 7, lines 27-31. Deliver notification, display alert.). Seshadri teaches of detecting a transition but not specifically to a presence state indicative of an idle user state

32. Horvitz teaches of detecting a transition from a presence state indicative of a busy user state to a presence state indicative of an idle user state subsequent to said queuing; and notifying said given user of a queued instant messaging operation in response to detecting said transition (Paragraph 0185. Determine idle activity following activity. Alert the user of the message.).

33. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to detect a transition from a presence state as taught by Seshadri to a presence state indicative of an idle user state subsequent to said queuing; and notify said given user of a queued instant messaging operation in response to detecting said transition as taught by Horvitz. The motivation for the suggested combination is that Horvitz's teachings would provide an improvement to Seshadri's teachings by allowing notification of messages while reducing disruption to users as suggested by Horvitz (Paragraph 0008).

34. As per claims 8, 17, 27, 36, 46, and 55, Seshadri does not specifically teach invention as recited in claims 1, 11, 20, 30, 39, and 49, further comprising: detecting a computer system activity level indicative of computer system activity; determining whether said activity level exceeds an activity threshold in response to said detecting; and transitioning said current presence state of said instant

messenger to a busy state in response to determining that said activity level exceeds said activity threshold.

35. Horvitz teaches of detecting a computer system activity level indicative of computer system activity (Paragraph 0264. Observe mouse or keyboard activity. Paragraph 0265. Assess user activity.), determining whether said activity level exceeds an activity threshold in response to said detecting; and transitioning said presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold (Paragraphs 0264-0265. Determine how busy a user is. Paragraph 288. Observation about user activity may determine user state, which includes whether user is busy.)

36. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to detect a computer system activity level indicative of computer system activity, determine whether said activity level exceeds an activity threshold in response to said detecting; and transition said presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold. The motivation for the suggested combination is that Horvitz's teachings would provide an improvement to Seshadri's teachings by allowing notification of messages while reducing disruption to users as suggested by Horvitz (Paragraph 0008).

37. As per claims 13, 32, and 51, Seshadri teaches the invention as recited in claims 12, 31, and 50, wherein performing said instant messaging operation comprises initiating said chat operation (col. 4, lines 15-20. Instant message request. col. 5, lines 39. Instant messenger.). Seshadri does not specifically teach wherein said given presence state is indicative of an idle user state.

38. Horvitz teaches of a system for notification based on user state, wherein alerting may occur based on a state of non-activity (Paragraph 0267. Threshold on alerting for inferred state. Alerting may occur during idle activity following activity.).

39. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the given presence state as taught by Seshadri to be indicative of an idle user state as taught by Horvitz. The motivation for the suggested combination is that Horvitz's teachings would provide an improvement to Seshadri's teachings by allowing notification of messages while reducing disruption to users as suggested by Horvitz (Paragraph 0008).

40. As per claims 15, 34, and 53, Seshadri teaches the invention as recited in claims 14, 33, and 52, wherein performing said instant messaging operation comprises initiating said alert operation (col. 2, lines 9-11; col. 7, lines 27-31. Deliver notification, display alert.). Seshadri does not specifically teach wherein said given presence state is indicative of an idle user state.

41. Horvitz teaches of a system for notification based on user state, wherein alerting may occur based on a state of non-activity (Paragraph 0267. Threshold on alerting for inferred state. Alerting may occur during idle activity following activity.).

42. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the given presence state as taught by Seshadri to be indicative of an idle user state as taught by Horvitz. The motivation for the suggested combination is that Horvitz's teachings would provide an improvement to Seshadri's teachings by allowing notification of messages while reducing disruption to users as suggested by Horvitz (Paragraph 0008).

43. Claims 6, 25, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seshadri and Horvitz, in view of Beyda, US Publication #2003/0229722 (Beyda hereinafter).

44. As per claims 6, 25, and 44, Seshadri and Horvitz teach the invention as recited in claims 5, 24, and 43, wherein said instant messaging operation is a chat operation initiated by a second user, and queuing said instant messaging operation without notifying said given user (col. 4, lines 4-9. Inhibit

action according to current user state. col. 5, lines 50-55; col. 7, lines 25-31. Base upon state information, queue message.). Seshadri and Horvitz do not specifically teach the method further comprises notifying said second user of said queuing.

45. Beyda teaches a system for processing instant messages, wherein a sender is notified of a queued instant message (Paragraphs 0043; 0048. Notification sent to the sender that the instant message has been stored.).

46. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to notify the sender of a queued instant message. The motivation for the suggested combination is that Horvitz's teachings would provide an improvement to the suggested system by informing status of messages to the senders.

47. Claims 9, 18, 28, 37, 47, and 56, are rejected under 35 U.S.C. 103(a) as being unpatentable over Seshadri, in view of Horvitz, US Publication #2008/0104517 (Horvitz '517 hereinafter).

48. As per claim 9, 18, 28, 37, 47, and 56, Seshadri does not specifically teach the invention as recited in claims 1, 11, 20, 30, 39, and 49, further comprising: storing schedule information corresponding to said given user, wherein said schedule information is indicative of an activity status of said given user at a given time; querying said schedule information; and if said current presence state of said instant messenger does not correspond to said activity status indicated by said schedule information, assigning a different presence state that corresponds to said activity status in response to said querying, wherein said current presence state and said different presence state each correspond to said given user.

49. Horvitz '517 teaches a system for managing preference in receiving messages, wherein the system comprises of storing schedule information corresponding to a given user, wherein said schedule information is indicative of an activity status of said given user at a given time (Paragraph 0063.

Calendar setting indicates status. Paragraph 0153. Calendar may include status and availability.); querying said schedule information; and if a current presence state of said instant messenger does not correspond to said activity status indicated by said schedule information, assigning a different presence state that corresponds to said activity status in response to said querying, wherein said current presence state and said different presence state each correspond to said given user (Paragraph 0063. If a context setting or condition is true as specified on the calendar setting, set state as Busy.).

50. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to store schedule information corresponding to said given user, wherein said schedule information is indicative of an activity status of said given user at a given time; query said schedule information; and if a current presence state of said instant messenger does not correspond to said activity status indicated by said schedule information, assign a different presence state that corresponds to said activity status in response to said querying, wherein said current presence state and said different presence state each correspond to said given user. The motivation for the suggested combination is that Horvitz '517's teachings would provide an improvement to Seshadri's teachings by utilizing a user's context settings such as a calendar to further define a preference for communication, which allows for establishment of an optimal communication.

Conclusion

51. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

52. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH

shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

53. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua Joo whose telephone number is 571 272-3966. The examiner can normally be reached on Monday to Friday 7 to 4.

54. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on 571 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

55. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/J. J./
Examiner, Art Unit 2454

/Nathan J. Flynn/
Supervisory Patent Examiner, Art Unit 2454